

EXHIBIT 4

JUL 7. 2003 10:45AM McCARTER & ENGLISH

NO. 8468 P. 2

McCARTER & ENGLISH, LLP
Four Gateway Center
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P.O. Box 652
Newark, New Jersey 07101-0652
(973) 622-4444

OF COUNSEL:
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New York, NY 10017
(212) 450-4000
Attorneys for Defendant
AstraZeneca Pharmaceuticals L.P.
DC-3417

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2003 JUL - 7 10 53 10
WILLIAM T. GRIFFIN
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL
No. 68 WELFARE FUND,

Plaintiff,

v.

AstraZeneca PLC; AstraZeneca Pharmaceuticals LP;
AstraZeneca LP; Zeneca, Inc.; TAP Pharmaceutical
Products, Inc.; Abbott Laboratories; Takeda Chemical
Industries, Ltd.; Bayer AG; Bayer Corporation; Miles
Laboratories, Inc.; Cutter Laboratories, Inc.;
GlaxoSmithKline, P.L.C.; SmithKline Beecham
Corporation; Glaxo Wellcome, Inc.; Pharmacia Corporation;
Pharmacia & Upjohn, Inc.; Monsanto Company; G.D. Searle
Company; Sanofi-Synthelabo Inc.; Johnson & Johnson; Alza
Corporation; Centocor, Inc.; Ortho Biotech, Inc.; Alpha
Therapeutic Corporation; Hoffman La-Roche Inc.; Amgen,
Inc.; Immunex Corporation; Aventis Pharmaceuticals, Inc.;
Aventis Behring L.L.C.; Hoechst Marion Roussel, Inc.;
Centeon, L.L.C.; Armour Pharmaceuticals; Baxter
International Inc.; Baxter Healthcare Corporation; Immuno-
U.S., Inc.; Boehringer Ingelheim Corporation; Ben Venue
Laboratories, Inc.; Bedford Laboratories; Roxane
Laboratories, Inc.; Bristol-Myers Squibb Company;
Oncology Therapeutics Network Corporation; Apothecon,
Inc.; Dey, Inc.; Fujisawa Pharmaceutical Co., Ltd.; Fujisawa
Healthcare, Inc.; Fujisawa USA, Inc.; Novartis International
AG; Novartis Pharmaceutical Corporation; Sandoz
Pharmaceutical Corporation; Schering-Plough Corporation

Civil Action No.

NOTICE OF REMOVAL

JUL 7 2003 10:45AM McCARTER & ENGLISH

NO. 8468 P. 3

Warrick Pharmaceuticals Corporation; Sicor, Inc.; Gensia
Sicor Pharmaceuticals, Inc.; Wyeth; Wyeth Pharmaceuticals;
Saad Antoun, M.D.; Stanley C. Hopkins, M.D.; Robert A.
Berkman, M.D.; Does 1-50; ABC Corporations 1-50; and
XYZ Partnerships; and Associations 1-50,

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WILLIAM L. MASON CLERK

Defendants

2003 JUL -2 P 5:30

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES
DISTRICT COURT

The Notice of defendant AstraZeneca Pharmaceuticals L.P. respectfully shows:

1. On or about June 30, 2003, plaintiff International Union of Operating Engineers, Local No. 68 Welfare Fund filed a class action captioned *International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et. al*, in the Superior Court of New Jersey, Equity Division, Monmouth County, bearing Docket No. MON-C-193-03 (the "Complaint"). National counsel for AstraZeneca Pharmaceuticals L.P. ("AstraZeneca") received a copy of the Complaint on July 1, 2003.

2. Pursuant to 28 U.S.C. § 1446(a), and submitted with this Notice of Removal is a true and correct copy of all pleadings, process and orders received by AstraZeneca in the state court action. See Copies of Pleadings, etc., Tabs 1 and 2.

3. Pursuant to 28 U.S.C. § 1446(d), AstraZeneca has filed a copy of this Notice of Removal with the Clerk of the Superior Court of New Jersey in the County of Monmouth. AstraZeneca is also serving plaintiff with a copy of this Notice of Removal.

The AWP MDLs In Boston

4. This case is virtually identical to dozens of cases that have been transferred and consolidated from district courts throughout the country to two Multidistrict Litigation ("MDL") proceedings, *In re Pharmaceutical Average Wholesale Price Litigation*, MDL 1456, which is currently pending before Judge Patti Saris in the United States District Court for the District of Massachusetts, and *In re Lupron Marketing and Sales Practices Litigation*, MDL 1430, which is

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currently pending before Judge Richard Stearns in the United States District Court for the District of Massachusetts.

5. Like this case, many of these near-identical cases were originally filed in state courts and then removed on the same or similar grounds as this case. With respect to defendant AstraZeneca, state court actions with virtually identical factual allegations have been removed to other district courts nationwide. Virtually all of those cases, the district courts stayed the cases pending transfer by the Judicial Panel on Multidistrict Litigation to the MDL proceedings in Boston.¹

The Allegations of the Class Action Complaint

6. The Complaint alleges claims against virtually the entire pharmaceutical industry based on the use of "Average Wholesale Price" ("AWP"). It points out although federal administered government assistance programs (i.e., the federal Medicare program) do not generally cover prescription drug costs, they "typically do cover the cost of drugs administered by or under the supervision of a medical physician," see Complaint ("Cplt.") ¶ 2, including cancer, inhalant, and miscellaneous other drugs, see *id.* ¶¶ 2-13. "AWP is used by government and private assistance programs [as the basis, in whole or in part,] for reimbursement" of the cost of such drugs. *Id.* ¶ 108; see also *id.* ¶ 109; 42 C.F.R. § 402.517 (providing that health care providers are reimbursed for Medicare Part B drugs based on the lower of the actual charge on the claim for benefits or 95 percent of the Average Wholesale Price). According to the Class Action Complaint, pharmaceutical manufacturers report AWP's for their drugs to private, third-

¹ Specifically, the courts issued stays in the following seven AWP actions: (i) *Geller v. Abbott Labs., Inc. et al.*, Case No. CV 02-00553 DDP (C.D. Cal. Mar. 22, 2002) (Ferguson J.) ("The Court finds that all factors, including the jurisdictional issues presented and the potentially expansive nature of this litigation, favor granting the stay"); (ii) *Montana v. Abbott Labs., Inc. et al.*, Case No. CV 02-09-H-DWM (D. Mont. June 21, 2002) (Molloy J.) ("In this case, the benefit of judicial economy and consistency among pretrial rulings outweighs any prejudice plaintiff may suffer as a result of a stay."); (iii) *Nevada v. American Home Prods., Inc.*, No. CV-N-02-202-ECR (D. Nev. Jul. 26, 2002) (Reed J.); (iv) *Thompson v. Abbott Labs., Inc. et al.*, Case No. CGC-02-411813 (N.D. Cal. Sept. 30, 2002) (Wilken J.); (v) *Rice v. Abbott Labs., Inc. et al.*, Case No. C 02-3925 (N.D. Cal. Nov. 26, 2002) (Jenkins J.); (vi) *Virag v. Allergan, Inc. et al.*, Case No. 02-8417 RSWL (C.D. Cal. Jan. 7, 2003) (Lew J.); (vii) *Turner v. Abbott Labs; et al.*, Case No. 02-CV-050006 (Jenkins, J.) (order granting stipulation by parties regarding stay of all proceedings).

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party pharmaceutical industry publications, such as the *Red Book*, Cplt. ¶ 110, and government and private assistance programs "have announced publicly that they would use the AWP published in pharmaceutical industry publications as a basis for reimbursement, in whole or in part." Cplt. ¶ 109.

7. Plaintiff further alleges that defendants "engaged in a fraudulent scheme and conspiracy to deliberately inflate the AWP's for cancer, inhalant and miscellaneous other drugs and other prescription drugs," Cplt. ¶ 108, thereby causing plaintiff and other members of the putative class to "pa[y] more for these drugs than [they] otherwise should have." Cplt. ¶ 113; *see also* Cplt. ¶ 14, 16.

8. Plaintiff has brought this suit as a class action on behalf of "[a]ll persons and entities in New Jersey and throughout the county who, during the period beginning at least 1991 through the present, paid any portion of the cost of cancer, inhalant and miscellaneous other drugs manufactured, marketed, distributed and sold by Defendants, which cost was based, in whole or in part, upon the published AWP's for such drugs." Cplt. ¶ 99. Thus, Plaintiff's putative class includes Medicare beneficiaries, as well as entities who have paid the co-payments for Medicare Part B drugs on behalf of such beneficiaries. Plaintiff's putative class also includes thousands, if not millions, of ERISA participants, beneficiaries, and plans.

9. Plaintiff asserts claims for unjust enrichment, fraud, civil conspiracy, concert of action, and violations of the New Jersey Consumer Fraud Act. *See* Cplt. ¶¶ 284-321. Plaintiff seeks recovery of damages, restitution, injunctive relief, treble damages, and punitive damages. *See* Cplt. ¶ 17; Prayer for Relief.

Removal Based on Federal Question Jurisdiction

10. This Court has original jurisdiction over this civil action under 28 U.S.C. § 1331, because it arises under the laws of the United States. Specifically, federal question jurisdiction

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exists in this action because plaintiff's state law claims are completely preempted by ERISA and because plaintiff's state law claims require the resolution of substantial federal questions.

ERISA Preemption

11. A state law claim that is completely preempted by ERISA may be removed to federal court because such a claim "arises under the laws of the United States" and is within the "original jurisdiction" of the district courts. Because plaintiff's claims "relate to" an ERISA-qualified employee benefit plan, *see* 29 U.S.C. § 1144(a), and because they fall within ERISA's civil enforcement provision, *see* 29 U.S.C. § 1132(a)(3), ERISA completely preempts plaintiff's state law claims.

12. The named plaintiff in this case is itself an ERISA-qualified employee pension plan. Plaintiff's claims necessarily "relate to" ERISA-qualified employee benefit plans because they bear upon numerous ERISA-regulated relationships, including those among and between the ERISA plan and the ERISA plan participants, beneficiaries, and fiduciaries. Plaintiff also acknowledges that the purported class includes "Private Assistance Patients" "who subscribe to and rely on private health insurance carriers and programs for the partial payment of their medical care and treatment." Cplt. ¶ 1. Many of these "private assistance programs" are insurance plans that are operated under the terms of ERISA-qualified employee benefit plans. The purported class also includes "entities" "who overpaid as a result of Defendants' fraudulent scheme." *See id.* These "entities" include other ERISA plans as well as self-insured employers who maintain ERISA plans with prescription drug benefit programs for their employees. Furthermore, many of these self-insured employers may serve as ERISA fiduciaries for their plans or be ERISA plans themselves.

13. Plaintiff's claims also "relate to" ERISA plans because the claim will require analysis of thousands of ERISA plans. ERISA plans often define the terms and conditions under which the plan or its fiduciary (or a third party administrator) will cover and pay out benefits for prescription drugs for plan beneficiaries and participants. Plaintiff's claims on behalf of ERISA-

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covered patients and employers will involve the interpretation and analysis of the terms in thousands of ERISA plans.

14. The ERISA civil enforcement provision provides that a "civil action" may be brought by a "participant, beneficiary or fiduciary" to enjoin or redress "any act or practice which violates any provision of [ERISA] or the terms of the [ERISA-qualified employee benefits] plan." 29 U.S.C. § 1132(a)(3). Plaintiff's class action necessarily seeks to redress, on behalf of ERISA participants, beneficiaries, and fiduciaries, an alleged "act or practice" that may violate "the terms" of an ERISA-qualified employee benefit plan. 29 U.S.C. § 1132(a)(3). Accordingly, plaintiff's state law claims are encompassed by ERISA's civil enforcement provisions, subject to defenses that may be asserted in a motion to dismiss under Rule 12, or otherwise.

15. This Court has supplemental jurisdiction over any state law claims that may not be completely preempted by ERISA. See 28 U.S.C. § 1367(a) ("[T]he district courts shall also have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy . . .").

Substantial Federal Question

16. This Court has original jurisdiction over this federal action under 28 U.S.C. § 1331, because it arises under the laws of the United States. Specifically, federal jurisdiction exists in this action because the state law claims brought by plaintiff on behalf of "government assistance patients," who include Medicare beneficiaries in the State of New Jersey, raise substantial federal questions in that they require the resolution of issues relating to the federal Medicare program. See *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 9, 28 (1983) (holding that federal question jurisdiction exists whenever "the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law").

17. The state law fraud and consumer protection claims asserted by plaintiff on behalf of "government assistance patients," who include Medicare beneficiaries, necessarily depend on

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an interpretation of the federal statute and regulations governing Medicare Part B reimbursement, which explicitly derive reimbursement (and a beneficiary's 20% co-payment) to a drug's AWP. Plaintiff cannot recover on its state law fraud claims brought on behalf of Medicare beneficiaries who made a co-payment for any Medicare Part B covered drug unless it proves its fundamental assertion that the reported AstraZeneca AWP was artificially inflated as the term AWP has been interpreted under the federal Medicare reimbursement statute and regulations.

18. This court has supplemental jurisdiction over all of plaintiffs' AWP claims on behalf of non-Medicare beneficiaries or entities pursuant to 28 U.S.C. § 1367.

Consent to Removal

19. Consent to removal is required only for served defendants. AstraZeneca has conducted a reasonably diligent inquiry, and based on this investigation, is informed and believes that, as of the date of this Notice, none of the other named defendants has been served with the Class Action Complaint. Counsel for AstraZeneca is further informed and believes, based on this investigation, that all defendants will consent to this removal and will join herein following the service of process.

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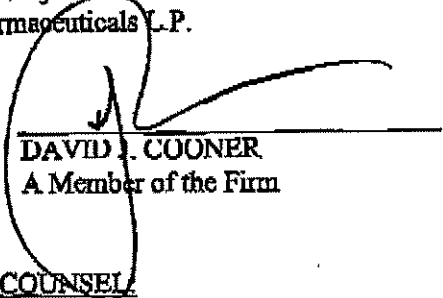
NO. 8468 P. 9

WHEREFORE, defendant AstraZeneca respectfully requests that this case proceed in this Court as an action properly removed thereto.

Dated: July 3, 2003

McCARTER & ENGLISH, LLP
Attorneys for Defendant AstraZeneca
Pharmaceuticals L.P.

By:


DAVID J. COONER
A Member of the Firm

OF COUNSEL
DAVIS POLK & WARDWELL
D. Scott Wise

NWK2-1065250.01

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NO. 8468 P. 10

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(973) 622-4444

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2003 JUL -2 2 4 31

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Attorneys for Defendant
AstraZeneca Pharmaceuticals L.P.
DC-3417

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL NO. 68 WELFARE FUND,

Plaintiff,

Civil Action No.

v.

AstraZeneca PLC; AstraZeneca Pharmaceuticals LP;
AstraZeneca LP; Zeneca, Inc.; TAP Pharmaceutical
Products, Inc.; Abbott Laboratories; Takeda Chemical
Industries, Ltd.; Bayer AG; Bayer Corporation; Miles
Laboratories, Inc.; Cutter Laboratories, Inc.;
GlaxoSmithKline, P.L.C.; SmithKline Beecham
Corporation; Glaxo Wellcome, Inc.; Pharmacia Corporation;
Pharmacia & Upjohn, Inc.; Monsanto Company; G.D. Searle
Company; Sanofi-Synthelabo Inc.; Johnson & Johnson; Alza
Corporation; Centocor, Inc.; Ortho Biotech, Inc.; Alpha
Therapeutic Corporation; Hoffman La-Roche Inc.; Amgen,
Inc.; Immunex Corporation; Aventis Pharmaceuticals, Inc.;
Aventis Behring L.L.C.; Hoechst Marion Roussel, Inc.;
Centeon, L.L.C.; Armour Pharmaceuticals; Baxter
International Inc.; Baxter Healthcare Corporation; Immuno-

COPIES OF ALL PROCESS,
PLEADINGS AND ORDERS
IN STATE COURT

JUL 7 2003 10:47AM McCARTER & ENGLISH

NO. 8468 P. 11

U.S., Inc.; Boehringer Ingelheim Corporation; Ben Venue
 Laboratories, Inc.; Bedford Laboratories; Roxane
 Laboratories, Inc.; Bristol-Myers Squibb Company;
 Oncology therapeutics Network Corporation; Apoteco,
 Inc.; Dey, Inc.; Fujisawa Pharmaceutical Co., Ltd.; Fujisawa
 Healthcare, Inc.; Fujisawa USA, Inc.; Novartis International
 AG; Novartis Pharmaceutical Corporation; Sandoz
 Pharmaceutical Corporation; Schering-Plough Corporation
 Warrick Pharmaceuticals Corporation; Sicor, Inc.; Gensia
 Sicor Pharmaceuticals, Inc.; Wyeth; Wyeth Pharmaceuticals;
 Saad Antoun, M.D.; Stanley C. Hopkins, M.D.; Robert A.
 Berkman, M.D.; Does 1-50; ABC Corporations 1-50; and
 XYZ Partnerships; and Associations 1-50,

Defendants

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WILLIAM T. WA. CLERK

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JUL 7 2003

Attached hereto and made a part thereof are the following: (1) a copy of the
 Summons and Complaint received by defendant AstraZeneca Pharmaceuticals L.P. (Exhibit A),
 and (2) all pleadings in connection with plaintiffs order to show cause for preliminary injunction
 against AstraZeneca Pharmaceuticals L.P. and Dr. Saad Antoun (Exhibit B), which were filed in
 the Superior Court of the State of New Jersey, Monmouth County, on June 30, 2003. This
 defendant is aware of no other process, pleadings or orders filed in this matter.

McCARTER & ENGLISH, LLP
 Attorneys for Defendant
 AstraZeneca Pharmaceuticals L.P.

By:

DAVID J. COONER
 A Member of the Firm

JUL 3, 2003

TO: Clerk
 Superior Court of New Jersey
 71 Monument Park
 P.O. Box 1262
 Court House, East Wing
 Freehold, NJ 07728-01262

JUL. 7. 2003 10:47AM McCARTER & ENGLISH

NO. 8468 P. 12

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JUL 7 2003 10:47AM McCARTER & ENGLISH

NO. 8468 P. 13

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Attorneys for Defendant
AstraZeneca Pharmaceuticals, L.P.

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TELEPHONE
1111111111

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL NO.
68 WELFARE FUND,

Plaintiffs,

v.

AstraZeneca PLC; AstraZeneca
Pharmaceuticals LP; AstraZeneca LP; Zeneca,
Inc.; TAP Pharmaceutical Products, Inc.;
Abbot Laboratories; Takeda Chemical
Industries, Ltd; Bayer AG; Bayer Corporation;
Miles Laboratories, Inc.; Cutter Laboratories,
Inc.; GlaxoSmithKline, P.L.C; SmithKline
Beecham Corporation; Glaxo Wellcome, Inc;
Pharmacia Corporation; Pharmacia & Upjohn,
Inc.; Monsanto Company, G.D., Scarle
Company; Sanofi-Synthelabo Inc.; Johnson &
Johnson; Alza Corporation; Centocor, Inc.;
Ortho Biotech, Inc; Alpha Therapeutic
Corporation; Hoffman La-Roche Inc.; Amgen,
Inc.; Immunex Corporation; Aventis
Pharmaceuticals, Inc.; Aventis Behring
L.L.C.; Hoechst Marion Roussel, Inc.;
Centeon, L.L.C. Armour Pharmaceuticals;
Baxter International Inc.; Baxter Healthcare
Corporation; Immuno-U.S., Inc.; Boehringer
Ingelheim Corporation; Ben Venue
Laboratories, Inc.; Bedford Laboratories;
Roxane Laboratories, Inc.; Bristol-Myers
Squibb Company; Oncology Therapeutics
Network Corporation; Apothecon, Inc.; Dey,
Inc.; Fujisawa Pharmaceutical Co., Ltd;
Fujisawa Healthcare, Inc.; Fujisawa USA,

Civil Action No.

AFFIDAVIT OF SERVICE

07/08/03 18:29 FAX 212 450 5550

DPW 13-10

013

JUL 7 2003 10:48AM McCARTER & ENGLISH

NO. 8468 P. 14

Inc.; Novartis International AG; Novartis
Pharmaceutical Corporation; Sandoz
Pharmaceutical Corporation; Schering-Plough
Corporation; Warrick Pharmaceuticals
Corporation; Sicor, Inc.; Gensia Sicor
Pharmaceuticals, Inc; Wyeth Pharmaceuticals;
Saad Antoun, M.D.; Stanley C. Hopkins,
M.D.; Robert A. Berkman, M.D.; Does 1-50;
ABC Corporations 1-50; and XYZ
Partnerships; and Associations 1-50,

Defendant.

RECEIVED
U.S. DISTRICT COURT
2003 JUL -2 10 16 33

STATE OF NEW JERSEY)
) s.s:
COUNTY OF ESSEX)

DIANA ATKINSON, of full age, being duly sworn according to law, upon her
oath deposes and says:

1. I am a legal secretary employed by the law firm of McCarter & English, LLP,
counsel for defendant AstraZeneca Pharmaceuticals, L.P. in this action.

2. On this day, I caused to have filed, by hand delivery, with the Clerk, United
States District Court, District of New Jersey, Martin Luther King, Jr. Federal Building & U.S.
Courthouse, 50 Walnut Street, Newark, New Jersey, the original and three (3) copies of a Notice
of Removal, Copies of All Process, Pleadings and Orders in State Court, and a Civil Cover
Sheet, and a copy of a Notice of Filing of Removal, on behalf of defendant defendant
AstraZeneca Pharmaceuticals, L.P.

3. On this day, I caused to have filed, by overnight mail, copies of all of the
aforementioned Notice of Filing of Removal, to which was attached a copy of the Notice of
Removal, at the Clerk's Office, New Jersey Superior Court, Monmouth County Courthouse, One
East Main Street, Freehold, New Jersey 07728.

JUL 7 2003 10:48AM

McCARTER & ENGLISH

NO. 8468 P. 15

4. On this day, I caused to have served, by overnight mail, copies of all of the
aforementioned documents to counsel as follows:

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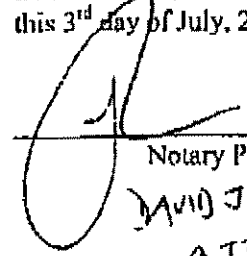
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Monmouth County
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One East Main Street
Freehold, NJ 07728
Phone: (732) 431-7135
Fax: (732) 845-2029

5. One this day, I further caused to be served, by regular mail, copies of the
aforementioned documents to counsel on the attached list.


DIANA ATKINSON

Sworn and subscribed to before me
this 3rd day of July, 2003.


Notary Public

ANDREW J. COWEN
ATTORNEY AT LAW
STATE OF NEW JERSEY

NWK2. 1063072.01

JUL 7 2003 10:48AM McCARTER & ENGLISH

NO. 8468 P. 16

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Pharmaceutical Co., Ltd.

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NO. 8468 P. 17

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Pharmacia Corporation,
Pharmacia & Upjohn, Inc.

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Pharmacia Corporation,
Pharmacia & Upjohn, Inc.

S. Craig Holden, Esq.
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National counsel for defendant,
Dey, Inc.

JUL 7. 2003 10:48AM McCARTER & ENGLISH

NO. 8468 P. 18

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NO. 8468 P. 19

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NO. 8468 P. 20

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

International Union of Operating Engineers, Local No. 68 Welfare Fund - 3 D

DEFENDANTS

AstraZeneca Pharmaceuticals, L.P., et al.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(EXCEPT IN U.S. PLAINTIFF CASES)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEY'S (FIRM NAME, ADDRESS AND TELEPHONE NUMBER)

See Attached

ATTORNEYS (IF KNOWN)

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II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of this State ☐ 1 PTF ☐ 1 DEF
Citizen of Another State ☐ 2 PTF ☐ 2 DEF
Citizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEF
Incorporated or Principal Place of Business in This State ☐ 4 PTF ☐ 4 DEF
Incorporated and Principal Place of Business in Another State ☐ 5 PTF ☐ 5 DEF
Foreign National ☐ 6 PTF ☐ 6 DEF

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Removed from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multi-District Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	PROPERTY/REALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 161 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Defendant) <input type="checkbox"/> 163 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 164 Stockholders Suits <input type="checkbox"/> 165 Other Contract <input type="checkbox"/> 166 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 210 Airplane <input type="checkbox"/> 215 Airplane Product Liability <input type="checkbox"/> 220 Assault Libel & Slander <input type="checkbox"/> 230 Federal Employers Liability <input type="checkbox"/> 240 Marine <input type="checkbox"/> 245 Marine Product Liability <input type="checkbox"/> 250 Motor Vehicle <input type="checkbox"/> 255 Motor Vehicle Product Liability <input type="checkbox"/> 260 Other Personal Injury	<input type="checkbox"/> 310 Agricultural <input type="checkbox"/> 320 Other Food & Drug <input type="checkbox"/> 325 Drug Related Suits of Property 21 USC 861 <input type="checkbox"/> 330 Labor Laws <input type="checkbox"/> 340 R.R. & Truck <input type="checkbox"/> 350 Airline Regs. <input type="checkbox"/> 355 Occupational Safety/Health <input type="checkbox"/> 360 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 428 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 430 Copyrights <input type="checkbox"/> 435 Patent <input type="checkbox"/> 440 Trademarks BANKRUPTCY <input type="checkbox"/> 451 HSA (10957) <input type="checkbox"/> 462 Bank Lung (622) <input type="checkbox"/> 463 Bankruptcy (405/406) <input type="checkbox"/> 464 Bankruptcy (405/406) <input type="checkbox"/> 465 Bankruptcy (405/406)	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 430 Commercial Code <input type="checkbox"/> 440 Deposition <input type="checkbox"/> 450 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 460 Securities Services <input type="checkbox"/> 470 Securities/Commodity Exchange <input type="checkbox"/> 475 Customer Challenge 12 USC 3410 <input type="checkbox"/> 481 Agricultural Acts <input type="checkbox"/> 482 Economic Stabilization Act <input type="checkbox"/> 483 Environmental Matters <input type="checkbox"/> 484 Energy Allocation Act <input type="checkbox"/> 485 Freedom of Information Act <input type="checkbox"/> 490 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 495 Constitutionality of State Statutes <input type="checkbox"/> 499 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Ownership <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Form Lease & Ejectment <input type="checkbox"/> 240 Title to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 250 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Other Civil Rights	PRISONER/DETENTION <input type="checkbox"/> 510 Migrants in Custody <input type="checkbox"/> 515 Habeas Corpus <input type="checkbox"/> 520 General <input type="checkbox"/> 525 Death Penalty <input type="checkbox"/> 530 Marital & Other <input type="checkbox"/> 535 Civil Rights <input type="checkbox"/> 540 Prison Conditions	<input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 761 (Shop Act Inc Security Act)	<input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 (IRS Third Party 28 USC 7603)

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

ERISA, 29 U.S.C. § 1144(a) and 1132(a) Plaintiff's claims relate to an ERISA-qualified employee benefit plan

VII. REQUESTED IN COMPLAINT:	CHECK IF THIS IS A CLASS ACTION	DEMAND \$ none specified	CHECK YES only if demanded in complaint
	<input checked="" type="checkbox"/> UNDER F.R.C.P. 23		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

VIII. RELATED CASE(S) IF ANY	(See Instructions): In Re Pharmaceutical Industry Average Wholesale Price Litigation	DOCKET NUMBER	MDL 1456 (D. Mass)
JUDGE	Hon. Patti Saris, U.S.D.J.		Civ. A. No. 01-12257-PBS

DATE 7/3/03 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING FFP JUDGE MAG. JUDGE

JUL 7 2003 10:49AM McCARTER & ENGLISH

NO. 8468 P. 21

International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca Pharmaceuticals, L.P.

Attachment to Civil Cover Sheet

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JUL 7. 2003 10:49AM

McCARTER & ENGLISH

NO. 8468 P. 22

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44**Authority For Civil Cover Sheet**

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other pages as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked the citizenship of the different parties must be checked. (See Section III below: federal question actions take precedence over diversity cases.)

III. **Residence (citizenship) of Principal Parties.** This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under the authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

V. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suits. If the cause fits more than one nature of suit, select the most definitive.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause.

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.